

REMARKS

This communication is in response to the Office Action mailed on March 9, 2005. The Office Action first reports that claims 1-51 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In particular, the Office Action reports that none of the claims are limited to practical applications in the technological arts. Applicants respectfully disagree.

Claims 1-51 include independent claims 1, 24 and 47 that relate to control of a physical system. Independent claim 1 recites a step of controlling the physical system as a function of checking a quality of identity of a virtual identity system. The quality of identity is a function of actual output. Claims 24 and 47 recite similar subject matter. For reasons discussed below, applicant respectfully believes this language renders each of the claims as patentable subject matter. In particular, applicant respectfully believes that these claims meet the requirements of 35 U.S.C. § 101 because the claimed invention falls within at least two of the "safe harbors" specified by M.P.E.P. § 2106 IV (B) (2) (b) (I). As specified therein,

A process is statutory if it requires physical acts to be performed outside the computer independent of and following the steps to be performed by a programmed computer, where those acts involves the manipulation of tangible physical objects and result in the object having a different physical attribute or structure. Thus, if a process claim includes one or more post-computer process steps that result in a physical transformation outside the computer (beyond merely conveying the direct result of the computer operation), the claim is clearly statutory.

These guidelines further provide an example of the safe harbor where a method of controlling a mechanical robot includes using a computer processor to calculate a position of the robot in relation to a given test to be performed by the robot, and controlling the robot's movement and position based on the calculated position.

The subject matter of each of claims 1-51 is not unlike the example specified in the M.P.E.P. In particular, each of these claims recite control of a physical system. This control includes acts that clearly "involves the manipulation of tangible physical objects and result in the object having a different physical attribute". Furthermore, applicant respectfully believes that these claims also fall within another safe harbor specified in the M.P.E.P. at § 2106. In particular, it is provided,

Another statutory process is one that requires the measurements of physical objects or activities to be transformed outside of the computer into computer data, where the data comprises signals corresponding to physical objects or activities external to the computer system, and where the process causes a physical transformation of the signals which are intangible representations of the physical objects or activities.

Examples of this type of claimed statutory process are also provided and include, for example, analyzing electric signals representative of human cardiac activity. Analysis of statutory subject matter includes determining that the data is an intangible representation of physical activity and whether a transformation of the signals has occurred. Claims 1-51 clearly meet these requirements. These claims utilize an actual output of physical activity, i.e., responses of a system to various drive inputs. A transformation also occurs where the quality of identity is checked using the actual output.

Accordingly, applicant respectfully believes claims 1-51 are directed to patentable subject matter. Withdrawal of the rejections under 35 U.S.C. § 101 is respectfully requested.

Claims 1-51 were also rejected under 35 U.S.C. § 112, first paragraph. In particular, it was determined that a rejection was required under current case law and the M.P.E.P. given the rejection under 35 U.S.C. § 101. As discussed above, claims 1-51 are believed to recite statutory subject matter and thus meet the requirements of 35 U.S.C. § 112, first paragraph.

As a result, withdrawal of this rejection is respectfully requested.

In view of the foregoing, applicants respectfully submit that the present application is in condition for allowance. Favorable action is requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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